

2.1.7 Cultural Resources

A *Historic Property Survey Report* (HPSR) was prepared previously for the project (California Department of Transportation [Department], January 2007) when it was a federal undertaking. Subsequent to the completion of the HPSR, various changes to the project occurred requiring supplemental documentation. A *Supplemental Historical Resources Compliance Report* (SHRCR) for the SR-74 Widening project was prepared by the Department in July 2008 to document compliance under CEQA. The intention of this supplemental HRCR was fivefold: (1) to document the project's changes from a federal undertaking subject to Section 106 of the National Historic Preservation Act of 1966 (NHPA) to a State-only project subject to the requirements of the CEQA; (2) clarify the CEQA findings for the resources within the project limits; (3) to analyze design changes for potential impacts to cultural resources; (4) to discuss the results of previous consultation with the Office of Historic Preservation (OHP) regarding the findings of the 2007 HPSR; and (5) to reevaluate the road segment of SR-74 within the project limits and provide notice and summary to, and seek comments from, the State Historic Preservation Officer (SHPO) pursuant to California Public Resources Code (PRC) Section 5024(b) and PRC Section 5024.5 regarding the findings.

Potential cultural resources within the Area of Potential Effects (APE) were documented for the proposed project. The APE is the area within which cultural resources may be affected, either directly or indirectly, by a proposed project. The proposed project's APE encompasses the existing paved roadway and the maximum limit of any potential disturbances that may result from construction activities.

In September 2008, a potential noise mitigation measure (Section 2.2.7.3, Mitigation Measure N-1) was proposed for a residence along the north side of SR-74 within the project limits. As a result, a second SHRCR was completed in October 2008 to evaluate the property.

2.1.7.1 Regulatory Setting

"Cultural resources" as used in this document refers to all historical and archaeological resources, regardless of significance. Laws and regulations dealing with cultural resources include:

The National Historic Preservation Act of 1966, as amended, (NHPA) sets forth national policy and procedures regarding historic properties, defined as districts, sites,

buildings, structures, and objects included in or eligible for the National Register of Historic Places. Section 106 of NHPA requires federal agencies to take into account the effects of their undertakings on such properties and to allow the Advisory Council on Historic Preservation (ACHP) the opportunity to comment on those undertakings, following regulations issued by the Advisory Council on Historic Preservation (36 CFR 800). On January 1, 2004, a Section 106 Programmatic Agreement (PA) between the Advisory Council, FHWA, State Historic Preservation Officer (SHPO), and the Department went into effect for Department undertakings, both state and local, with FHWA involvement. The PA implements the Advisory Council's regulations, 36 CFR 800, streamlining the Section 106 process and delegating certain responsibilities to the Department. The FHWA's responsibilities under the PA have been assigned to the Department as part of the Surface Transportation Project Delivery Pilot Program (23 CFR 773) (July 1, 2007). While the PA that the Department uses for Section 106 compliance was developed specifically for federal undertakings, Department policy is to use the instructions outlined in the PA attachments as guidance for CEQA projects.

Historical resources are considered under CEQA, as well as California Public Resources Code (PRC) Section 5024.1, which established the California Register of Historical Resources. PRC Section 5024 requires state agencies to identify and protect state-owned resources that meet National Register of Historic Places listing criteria. It further specifically requires the Department to inventory state-owned structures in its right-of-way. Section 5024(f) and 5024.5 require state agencies to provide notice to and consult with the State Historic Preservation Officer (SHPO) before altering, transferring, relocating, or demolishing state-owned historical resources that are listed on or are eligible for inclusion in the National Register or are registered or eligible for registration as California Historical Landmarks. It is Department policy to apply both the National Register criteria and the California Register criteria simultaneously when conducting evaluations. The simultaneous use of National Register and California Register criteria is needed for compliance with PRC Section 5024 for state-owned resources.

2.1.7.2 Affected Environment

The information presented in this section is based on the evaluation results found in the January 2007 HPSR, the July 2008 SHRCR, and the October 2008 SHRCR. The HPSR document was forwarded to the SHPO in March 2007. In June 2007, comments were received from the SHPO. Subsequently, federal funding for the project was withdrawn, and Section 106 consultation was discontinued in June 2007.

As a result, a SHRCR was prepared to address CEQA compliance in July 2008. In August 2008, the SHRCR was submitted to the SHPO and consultation under PRC Section 5024 for State-owned resources was undertaken. See Appendix C for SHPO consultation. A second SHRCR was prepared in October 2008 to address potential noise mitigation measures being considered for a residence along the northern side of SR-74.

An indirect APE was established to take into account any indirect effects the proposed project may have on the built environment and is depicted on the APE map within the HPSR, SHRCR and the second SHRCR. In general, the indirect APE includes the first row of adjacent parcels along SR-74.

The HPSR and SHRCRs include findings from records/literature searches, consultation with interested parties, and pedestrian field surveys. Prior to the field survey, a records and literature search was conducted in August 2001 at the South Central Coastal Information Center for an area within a one-mile radius of the project and includes inventories of the National Register, the California Register, California Historical Landmarks, and California Points of Historic Interest. Additionally, local historical inventories were consulted. Updated searches were conducted in 2003, 2005, and 2006 with the same results. Additional sources consulted for the project area include:

- Native American Heritage Commission (NAHC).
- City of San Juan Capistrano Planning Department.
- Native American Tribes, Groups and Individuals.
- Juaneño Band of Mission Indians: David Belardes, Joyce Perry, Sonia Johnston, Anita Espinoza, Alfred Cruz, Kristen Rivers, Anthony Rivera, Joe Ocampo, Mike Aguilar, and Adolph “Bud” Sepulveda.
- Cahuilla Band of Mission Indians: Anthony Madrigal Jr. and Maurice Chacon.
- Gabrielino Tongva Indians of California Tribal Council: Robert Dorame and Mercedes Dorame.
- San Juan Capistrano Historical Society.
- San Juan Capistrano Historian Ilse Byrnes.
- Orange County Archives.
- Orange County Assessor’s Office.
- Orange County Recorder’s Office.
- San Juan Capistrano Regional Library.
- California State Library (Sacramento).

- California Department of Transportation Cultural and Community Studies Office Library (Sacramento).
- California Department of Transportation Library (Sacramento).
- Office of Historic Preservation (OHP).
- National Register of Historic Places, National Park Service (NPS).

In 2001, Department staff consulted with the NAHC, requesting a search of its Sacred Lands File. The NAHC responded by letter (dated August 16, 2001) that a search had failed to identify cultural resources within the project area. Department staff subsequently mailed letters and made follow-up calls requesting information regarding cultural resources within the project area to all the Native American contacts on the list provided by the NAHC. An updated NAHC search was requested in 2006, and the same response was received on September 27, 2006, with an updated contact list. Subsequently, letters and follow-up calls were made to each individual on the list who had not been listed previously. In 2008, the NAHC responded to the NOP for the EIR providing an updated Native American contact list. Department staff contacted those newly listed. Native American consultation resulted in the following. David Belardes and Joyce Perry (Juaneño Band of Mission Indians – Acjachemen Nation) requested to be kept informed regarding project developments and offered monitoring assistance. Anita Espinoza (Juaneño Band of Mission Indians) offered monitoring assistance and requested to be kept informed of project finds. Maurice Chacon (Cahuilla Band of Mission Indians) requested to be notified in case of construction finds. No other responses or comments were received.

Field surveys were conducted in stages by Department staff. The roadway and shoulder areas were surveyed in 2001 initially, and upon access rights, the adjacent parcels were surveyed in 2003. Additional field surveys and site visits were conducted by Department staff between 2004 and 2008.

Through background research, consultation with interested parties, and field surveys, the following eight resources within the proposed APE were identified and formally evaluated in accordance with Section 15064.5(a)(2)(3) of the CEQA Guidelines, using criteria outlined in Section 5024.1 of the California PRC: (1) 28241 Ortega Highway; (2) 28281 Ortega Highway; (3) 28341 Ortega Highway (San Juan Farms); (4) 28271 Ortega Highway; (5) 30981 Via Cristal (Hankey-Rowse House); (6) 30882 Via Errecarte (Errecarte House); (7) Manriquez Adobe archaeological site; and (8) the segment of SR-74 (Ortega Highway) also referred to as “Hot Springs Road,”

within the project area between Calle Entradero and the City/County limits approximately 1 mi to the east.

28241 Ortega Highway

The Department evaluated this residence constructed in 1951, in accordance with Section 15064.5(a)(2)(3) of the CEQA Guidelines, using criteria outlined in Section 5024.1 of the California PRC. The property was found not eligible for the NRHP, nor was it considered an historical resource under CEQA (SHPO concurred June 13, 2007).

28281 Ortega Highway

The Department evaluated this residence originally constructed in 1932 with later additions, in accordance with Section 15064.5(a)(2)(3) of the CEQA Guidelines, using criteria outlined in Section 5024.1 of the California PRC. The property was found not eligible for the NRHP, nor was it considered an historical resource under CEQA (SHPO concurred June 13, 2007).

28341 Ortega Highway

The Department evaluated this property in accordance with Section 15064.5(a)(2)(3) of the CEQA Guidelines, using criteria outlined in Section 5024.1 of the California PRC. Two buildings exist on the property of the former San Juan Farms: a house that was built in 1953 and a produce stand that was built in 1981. The property was found not eligible for the NRHP, nor was it considered an historical resource under CEQA (SHPO concurred June 13, 2007).

28271 Ortega Highway

The Department evaluated this residence constructed in 1954, in accordance with Section 15064.5(a)(2)(3) of the CEQA Guidelines, using criteria outlined in Section 5024.1 of the California PRC. The property does not meet the criteria for listing in the California Register of Historical Resources (CRHR), and the Department has determined that the property is not a historical resource for purposes of CEQA.

Hankey-Rowse House

The Department evaluated the Hankey-Rowse House constructed in 1884, in accordance with Section 15064.5(a)(2)(3) of the CEQA Guidelines, using criteria outlined in Section 5024.1 of the California PRC. Under these criteria, the Department determined that the Hankey-Rowse House is a historical resource for the purposes of CEQA.

As documented in the HPSR, the Department had determined that the Hankey-Rowse House was eligible for listing in the NRHP under Criterion C for its architecture as one of the last remaining farmstead homes from the early agricultural development that followed the introduction of irrigation to the area. The SHPO disagreed with the determination of eligibility (letter dated June 13, 2007) stating that the house lacks integrity of design, materials, and location. Although the Department ultimately agreed with the SHPO determination (letter dated June 20, 2007), the Hankey-Rowse House is locally listed on the San Juan Capistrano's Inventory of Historic and Cultural Landmarks (IHCL), and as such, is a historical resource for the purposes of CEQA.

Errecarte House

The Department evaluated this residence constructed in 1910. As documented in the HPSR, the Department had determined that the Errecarte House was not eligible for listing in the NRHP. The SHPO concurred by letter (dated June 13, 2007), that the Errecarte House was not eligible for inclusion in the NRHP. However, because it is included in San Juan Capistrano's IHCL listing, it is a historical resource for the purposes of CEQA.

Manriquez Adobe Historical Archaeological Site

The Manriquez Adobe site was identified through archival research and oral history. No surface manifestations of the site were identified during the field survey. However, archival research suggested that information-bearing archaeological deposits may have survived. Therefore, for the purposes of this undertaking only, the Manriquez Adobe site was determined to be eligible for inclusion in the NRHP.

The SHPO responded by letter (dated June 13, 2007), that without tangible evidence of the site's presence or absence, the SHPO would have no material basis on which to concur with the Department's determination regarding the site. Subsequently, the Department responded by letter (dated June 20, 2007), providing additional clarification on the site's eligibility determination. Before consultation was concluded, the Department notified the SHPO on July 11, 2007, that Section 106 consultation was being terminated because the project was no longer a federal undertaking. Consequently, the Department reinitiated consultation with the SHPO under PRC Section 5024 on August 3, 2007, for the Manriquez Adobe site.

The Department requested comments from the SHPO in regard to the following conclusions: the historical archaeological site (Manriquez Adobe) is considered

eligible for inclusion in the NRHP, the portion of the site within the state right-of-way is a noncontributing portion of the site, and as proposed, the project will result in no adverse effect to the site with the establishment of an Environmentally Sensitive Area (ESA) Action Plan. Pursuant to PRC Section 5024(f), the Department did not receive any comments from the SHPO and concurrence was assumed. Therefore, the Department has determined that, for purposes of this project only, the site is eligible for inclusion in the NRHP and is thereby considered a historical resource for the purposes of CEQA.

Segment of SR-74 (Ortega Highway or “Hot Springs Road”)

As discussed in the HPSR, SR-74 (Ortega Highway) between San Juan Capistrano Mission and the Hot Springs located near the Orange/Riverside County border, was nominated for the NRHP as “Hot Springs Road” in the 1970s. In 1979, the Keeper of the NRHP returned the nomination to the SHPO because the resource did not meet the NRHP criteria as a historic district. The Keeper noted that some of the resources identified within the nomination could be individually eligible for listing in the NRHP as separate nominations in the future; however, no additional nominations were submitted.

As documented in the SHRCR, the segment of SR-74 within the project limits was re-evaluated as a result of the duration since the 1970s nomination and the contradictory reports of the NRHP status of SR-74 (“Hot Springs Road”) on non-National Park Service listings. The Department, pursuant to CEQA Guidelines Section 15064.5(a)(1)-(4), formally evaluated SR-74 “Hot Springs Road” between Calle Entradero and the City/County line approximately one-mile to the east and determined that it is not a historical resource for purposes of CEQA. It was also determined that this resource does not meet the NRHP or California Historical Landmark eligibility criteria pursuant to PRC Section 5024(b). The SHRCR was submitted to the SHPO on August 4, 2008, for comments regarding the findings pursuant to PRC Section 5024(f).

On September 3, 2008, the SHPO concurred that the segment of the SR-74 (Ortega Highway) affected by the proposed project does not meet criteria for listing on the NRHP or for registration as a California Historical Landmark and will not be added to the Master List of State-owned Historical Resources. Additionally, there was no objection to the no adverse effect determination for the project.

2.1.7.3 Environmental Consequences

Temporary Impacts

No Build Alternative

The No Build Alternative does not include any construction activities, it would not alter the current condition, and would not result in temporary impacts to cultural or historical resources.

Build Alternatives 1 and 2

There are no temporary impacts to cultural resources or human remains. Any impacts to such resources during construction are considered permanent impacts and are discussed below.

Permanent Impacts

No Build Alternative

The No Build Alternative does not alter the current condition or result in permanent impacts to cultural or historical resources.

Build Alternatives 1 and 2

There will be no permanent impacts to the Hankey-Rowse House, Manriquez Adobe Historical Archaeological Site, or the Errecarte House as a result of either Build Alternatives 1 or 2.

There is the potential to encounter unknown cultural resources or human remains during ground-disturbing activities. With implementation of the measures contained in Section 2.1.7.4, potential impacts to unknown cultural resources or human remains are considered less than significant.

Hankey-Rowse House

The Hankey-Rowse House is located within the indirect APE for the proposed project, adjacent to the location of a proposed noise barrier. The noise barrier would be built at the northern edge of the property and would follow the alignment of the existing garden wall. The two types of noise barriers being considered are both built on pier-type footings that would not require removal of the existing mature vegetation. Because the mature trees would remain in place, and the green buffer that separates the house on the property from the SR-74 and surrounding developments would be retained, the historic building would not be affected by the construction of the proposed noise barrier. Given that this resource would not be directly or indirectly impacted, the cultural resources impacts of the Build Alternatives are considered less than significant.

Errecarte House

The Errecarte House is located within the indirect APE for the proposed project and would not be directly or indirectly impacted by the Build Alternatives.

Manriquez Adobe Historical Archaeological Site

A portion of the Manriquez Adobe Historical Archaeological Site is located within the proposed area of direct impact (ADI). The portions of the site within the proposed ADI are not expected to contain information-bearing deposits and, therefore, are noncontributing elements to the larger property. Potential permanent impacts could result at the Manriquez Adobe Historic Archaeological Site due to construction activities such as clearing, grubbing, trenching, excavation, and storage. However, permanent impacts to the potentially significant portion of the site would be avoided through establishment of an Environmentally Sensitive Area (ESA). Through establishment of an ESA Action Plan (Attachment 5 of the Supplemental Historical Resources Compliance Report [SHRCR]), potentially significant subsurface deposits will not be impacted, and impacts to known cultural resources are considered less than significant.

SR-74 (Ortega Highway or “Hot Springs Road”)

Since it was determined that the segment of SR-74 (Ortega Highway or “Hot Springs Road”) within the project limits is not a historical resource for purposes of CEQA and does not meet the NRHP or California Historical Landmark eligibility criteria, there will be no permanent impacts to this resource associated with the Build Alternatives.

2.1.7.4 Avoidance, Minimization, and/or Mitigation Measures

The following measures avoid and minimize potential impacts to cultural resources.

An Environmentally Sensitive Area (ESA) Action Plan shall be developed for the Manriquez Adobe Historic Archaeological Site. The ESA Action Plan includes: ESA fencing along the Direct Area of Potential Effects (APE) to ensure that no construction equipment inadvertently impacts potential information-bearing portions of the site; education of construction personnel on archaeological sensitivity and expected remains; incorporation of the ESA Action Plan into the Final Construction Plans, Special Provisions, and Resident Engineer (RE) File; and periodic monitoring to ensure protections are enforced.

If buried cultural materials are encountered during construction, it is the Department's policy that construction activities in the immediate vicinity of the find halt until a qualified archaeologist can evaluate the nature and significance of the find.

If human remains are discovered during construction activities, State Health and Safety Code Section 7050.5 states that further disturbances and activities shall cease in the area or nearby area suspected to overlie remains, and that the County Coroner be contacted. Pursuant to Public Resources Code (PRC) Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC), which will then notify the Most Likely Descendant (MLD). At this time, the person who discovered the remains will contact the Resident Engineer for coordination with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC Section 5097.98 are to be followed as applicable.

2.1.7.5 Level of Significance

The No Build Alternative would have no temporary or permanent impacts to cultural resources.

With the implementation of the measures identified above, the Build Alternatives proposed for the lower SR-74 Widening project are not expected to result in temporary direct or indirect impacts to cultural resources. Permanent direct or indirect cultural resource impacts associated with the Build Alternatives are considered less than significant.